Incoming

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## Provo CITY ATTORNEY'S OFFICE FAX COVER SHEET

To:

Mark Mesch

Fax #:

359-3940

Steve Alder, AAG, DNR, 801/538-7440 John R. Baza, Director, DOGM, 359-3940 Phillip Lowry, Red Slab, LLC, 377-4991

Janise Macanas, AAG, Criminal Division, 366-0242 Gary Weight, Attorney for McPhilomys, 373-4964

Subject:

Order Issued by Judge Pullan Does Not Apply to Davis

Date:

8 March 2007

Pages:

3, including this

COMMENTS:

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DIV. OF OIL, GAS & MINING

The City of Provo, Utah



March 8, 2007

8018526150

Lewis K. Billings Mayor

Mark Mesch. Program Administrator State of Utah Department of Natural Resources Division of Oil, Gas & Mining 1594 West North Temple Ste. 1210 P.O. Box 145801 Salt Lake City, Utah 84114-5801

Re: March 5, 2007, Hearing on Motion that Court Order of February 26, 2004, Does Not Apply to Richard Davis

Dear Mr. Mesch:

It is our understanding that Mr. Richard W. Davis, has assumed the obligation to perform reclamation of the land mined without permits by the McPhilomys in late 2003.

As you are aware, in the criminal case against the McPhilomys, Judge Pullan ordered in February 2004 that:

- a) There is to be no excavation on what is referred to as the Davis claim located in Provo City, over which Provo city has jurisdiction, and/or over which the State of Utah has jurisdiction, absent a court order authorizing that excavation; and
- b) The Court is willing to consider any motion demonstrating that Defendants have obtained the necessary permits to engage in lawful excavation on the Davis claim; and
- c) By excavation the Court means the movement or removal of rock or earth materials, including stockpiled materials, by use of any vehicle, equipment, or machine.

City Attorney's Office

351 West Center Street

P.O. Box 1849 Because of the Court's express reference to Mr. Davis and the breadth of the

Provo, Utah 84603

language in the order, Mr. Davis and Provo City sought clarification of how this language might apply to Mr. Davis.

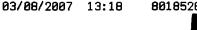
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Letter to Mark Mesch, Page 2

On March 5, 2007, the Court held a hearing and ruled on this issue. The Court held that its order in the McPhilomy cases should not apply Mr. Davis. From that ruling, it is our understanding that the Court's previous ruling should have no application in your consideration of reclamation or mining permits. A written order of the Court regarding the matter will be forthcoming. When we receive a signed copy of the order we will forward a copy to you.

PROVO CITY ATTORNEY

Sincerely,

Ole S Williams Camille S. Williams Assistant City Attorney

cc: by facsimile or U.S. Mail Steve Alder, AAG, DNR John R. Baza, Director, DOGM Christopher A. Jones, Attorney for Richard W. Davis Michael Zundel, Attorney for Richard W. Davis James A. Boevers, Attorney for Richard W. Davis Phillip Lowry, Red Slab, LLC Janise Macanas, AAG, Criminal Division Gary Weight, Attorney for McPhilomys

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